IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL
ORIGINAL JURISDICTION
Dated: Nainital: The April 5th, 2006
Criminal Misc. Bail Application No. 191 of 2006

Order on the bail application of accused

CRIMINAL SIDE

Nandan Singh S/o Sri Bhawan Singh
R/o Patikhet, Khurpatal
Tehsil & District Nainital …Applicants

Versus

State of Uttaranchal …Opposite Party

Arising out of Case of Crime No. 06 of 2006
Under Sections 376 IPC.
P.S. Tallital, Nainital
District Nainital

Hon'ble J.C.S. Rawat, J.

Heard Sri S.K. Mandal learned counsel for the applicant and learned A.G.A. for the State.

Perused the record. It is alleged that the applicant committed the rape for several times without consent of the victim. It is also on record that the father of the victim is handicapped and her mother had died. The applicant and co-accused used to commit the rape upon the victim and also used to threaten the victim that if she narrates the incident of rape to any one, they would kill her family members. Allegations made against the applicant under section 164 & 161 Cr.P.C. are corroborated with the FIR. It was contended on behalf of the applicant that there is an inordinate delay in lodging the FIR. Learned A.G.A. refuted the contention. In the case of State of **H.P. Vs. Shree Kant Shekari 2005 S.C.C. (Cri) p/327,** the accused committed the rape of girl aged about 14 years in the school on 28.5.1993. A few days after the first incident, the accused committed sexual intercourse with her again. Thereafter, on 20.11.1993 the victim lodged a report to the police station. In that case, the Hon'ble Supreme Court has held that the unusual circumstances satisfactorily explained the delay in lodging the FIR. In any event, delay per se is not a mitigating circumstance for the accused when accusations of rape are involved. Delay in lodging the FIR cannot be used as a

ritualistic formula for discarding the prosecution case and doubting its authenticity. Ultimately, the Hon'ble Supreme Court convicted the accused in that case.

In view of the foregoing discussion, I am of the view that there is no good ground for granting the bail. Therefore, the bail application is hereby rejected. Rejected.

(J.C.S. Rawat, J.)

Dated 05.04.2006
LSR